

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE – I, TIRUR	
Present: Smt.Sreeja. J, Judicial First Class Magistrate – I	
Dated this the 28 th day of March, 2026	
<u>C.C. 2021/2014</u>	
Complainant	: State:/ Represented by Sub Inspector of Police, Kadampuzha Police Station in Cr.No. 287/2014 (Rep. By Meenu V.S., APP, Tirur)
Accused	: A1]. Abdul Jamal, Aged 39/26, S/o. Alavikkutty Haji, Kottarathodi (H), Poolamangalam, Punnathala (PO) : A2]. Ali, Aged 45/26, S/o. Kunhimoideenkutty, Muthuvattil (H), Poolamangalam (P.O) (Rep.by Adv. P. Najmudheen)
offence	: U/S. 447,323,427,506(i) r/w 34 of IPC.
Pleading	: Not Guilty.
Finding	: Not Guilty.
Sentence or Order	: Both accused are acquitted u/s. 255(1) of Cr.PC

Description of accused

Sl No	Name of accused	Father's Name	Occupation	Residence	Age
1	Abdul Jamal	Alavikkutty Haji		Poolamangalam	39/26
2	Ali	Kunhimoideenkutty		Poolamangalam	45/26

Relevant Dates

Occurrence	Complaint	Apprehension of accused	Release on bail	Commencement of trial	Close of trial	Sentence of order
07.08.14	08.08.14	21.01.19	21.01.19	21.01.19	27.03.26	28.03.26

This case having been finally heard on 02.03.2026 and the court on 10.03.2026 passed the following.

J U D G M E N T

The final report in this case was filed by the Sub Inspector of Police, Kadampuzha Police Station in Cr.No. 287/2014 against the accused persons alleging the offence punishable u/s. 447,323,427,506(i) r/w 34 of IPC. Cognizance was taken for the offences u/s.447,323,427,506(i) r/w 34 of IPC.

2. Prosecution case in brief is as follows:- On 07.08.2014 at about 18.00 hours in Adavanad village located on 50 m west to the vettara junction on the Kuttippuram NH road the accused no.1 and 2 with the common intention of committing and offence trespassed into the compound of the shop named V.K Motors Used car showroom bearing building number V/190 owned by CW1. The accused no.1 caused hurt to CW1 by hitting with his hand, causing minor injuries and threatened to kill him. Furthermore he caused damage to the cars which was parked in the showroom compound bearing registration no. KL 55 P 5787 and another vehicle bearing registration no. KA 04 C 2938 by hitting with stone. This caused a loss of approximately

Rs. 15000/- to CW1 it is also alleged that the accused threatened CW1 to cause death. With the above allegations accused is alleged to have committed the offences punishable u/s. 447,323,427,506(i) r/w 34 of IPC.

3. In response to the summons issued, both accused appeared before this court. Copies of all prosecution records were furnished to them u/S.207 of Cr.P.C. After hearing learned Assistant Public Prosecutor and learned defence counsel and verifying the documents, on being satisfied that there were grounds to presume that accused committed the offence alleged, particulars of offence under Section 447,323,427,506(i) r/w 34 of IPC read over and explained to accused, to which they pleaded not guilty and claimed to be tried on the said charge. They defended through their counsel.

4. On the side of prosecution PW1 to PW5 were examined and Ext.P1 to P10 were marked. After closing prosecution evidence, accused were examined U/S.313(1)(b) of Code of Criminal Procedure. They denied all incriminating circumstances brought out during trial and maintained plea of innocence. Thereafter case was posted for defence evidence. No evidence adduced on the side of the accused.

5. Heard both sides.

6. From the facts and circumstances of the case following points arose for consideration:

1. Whether the accused persons trespassed into the compound of the showroom named VK Motors Used car and thereby

committed offence punishable u/s. 447 r/w 34 of IPC?

2. Whether accused caused simple hurt to CW1 by beating with hand and thereby committed offences punishable u/s. 323 of IPC?
3. Whether the accused caused mischief to the tune of Rs. 15,000/- by smashing the front glasses of the cars and thereby committed offence punishable u/s. 427 r/w 34 of IPC?
4. Whether the accused persons criminally intimidated CW1 and thereby committed offence punishable u/s. 506(i) r/w 34 of IPC?
5. If found guilty, what is the proper order as to sentence?

7. **Point No.1 to 4**;- These points can be discussed together for the sake of convenience. Prosecution has examined altogether 5 witnesses and Ext.P1 to P10 were marked. PW1 is the complainant who lodged Exbt. P1 complaint before Sub Inspector of Police, Valanchery Police Station and set the law in to motion. PW2 is the eye witness to the incident and Exbt. P2 161 statement was marked through him. PW3 is the Asst. Sub Inspector (Grade) of Police, Kadampuzha Police Station, conducted the primary investigation of the case and prepared Exbt. P3 Scene Mahazar. PW4 the then, SI of Police, Kadampuzha Police Station, registered Ext. P4 FIR in Kadampuzha Police Station Cr. no. 287/2014, prepared Ext. P5 report to add section in section column of FIR, Ext. P6 report to incorporate name and address of the accused in accused column of FIR and Ext. P7 report to add original registration

number of the vehicle involved in the case, released the vehicle by virtue of Ext. P8 kaicheet, produced Ext. P9 report of Inspection of Motor Vehicle involved in an accident and Ext. P10 report of Inspection of Motor Vehicle involved in an accident and he submitted the final report after completing the investigation. PW5 is the Asst. Motor Vehicles Inspector, Sub RTO, Tirur.

8. PW1 gave evidence that on 7/8/2014 at about 6:00 p.m. while he was at his shop the accused persons trespassed into the compound and accused no. 1 struck him with his hand and both of them used a stone to smash the glass of two cars part in the wagon R window and Mahindra Xylo. He was threatened with death. He estimates at total financial loss of Rs. 25,000/-. During cross examination he admitted that she conduct business in a building own by someone named Ali Haji. He did not produce a written lease agreement to the police. He stated that while he was in possession of the cars for sale the RC and insurance were not in his name but in the names of original he could not record the names of the previous owners of the vendor and it's a low and that moment the timing of the police arrival and the recording of this statement.

9. PW2 gave evidence that while he was working at a furniture shop located opposite to VK Motors, on 7-8-2014 at around 6:00 p.m. while he was standing in front of his shop two people enter the compound of VK motors and engaged in an altercation between PW1. He further stated he did not see the

accused person sitting PW1 nor causing any damage to the car situated in the shop. During cross examination he stated that he was a close friend of PW1 and he witnessed the incident. He was declared hostile by APP.

10. PW3 gave evidence that while he was working at Kadampuzha Police Station he took over the investigation of the case and visited the scene of the incident as pointed out by the witness. He prepared the scene mahazar which is marked as Exbt. P3. He describe the scene of occurrence as the compound of Mickey motors used car showroom. The accused surrendered at the station. Counsel for the accused argue that although the complaint mentioned that accused entered into the shop and caused damages the scene did not include the interior of the building. PW3 admitted that he did not investigate about the actual ownership of the building belongs to nor did he officially verify whose establishment V K Motors was. During cross examination he admitted that clerical error in the vehicle registration number and lack of documentation regarding property ownership.

11. PW4 gave evidence that on 8/8/2014 he received a complaint forwarded from Valanchery circle inspector and based on the complaint he registered the crime number 284/2014 of Kadampuzha police station under section 447,427, 506(i) r/w 34 of IPC. Exbt. P5 is a report filed to add section 323 IPC to the case after further investigation. Exhibit P6 is the report identifying the name and address of the accused. Exhibit P7 is a report

submitted to the court to correct a clerical error regarding vehicle number KL 55 P 5787 which was mistakenly recorded as KL 55 N 5787. Exhibit P9 and P10 are the reports received from AMVI after inspecting the vehicle which were produced before the court. During cross examination the witness admitted that when the complaint was initially forwarded the vehicle number was not mentioned. He also stated that an enquiry was conducted regarding the ownership of the two vehicles but if that information was not documented in the case diary he could not provide specific details from memory. The defence pointed out that the final report does not clearly state that accused trespassed into a building owned by the owners of the vehicles. The witness admitted that he does not personally know the complainant.

12. PW5 the Asst. Motor Vehicles Inspector, Sub RTO, Tirur gave evidence before court that he assessed the damages sustained by the vehicles involved in the case. On 20/8/ 2014 while he was working as an AMVI at Tirur RTO office as per the requisition from Kadampuzha SI, he inspected two motor cars bearing number KA 04 C 2938 and KL 55 P 5787 and assess the damages to the vehicle and issued Exbt. P9 and Exbt. P10 reports. He noted that the windscreen glasses were broken for both vehicles. During cross examination he admitted that he did not verify the owners of the vehicles. He confirmed that he saw the broken glasses but he could not determine the exact cause of the damage from the certificates. He also admitted that the inspection

of both vehicles were conducted at two different locations, that is from two workshops.

13. PW1 claimed that the incident occurred at his shoproom. However during cross examination it was admitted that the business was conducted in a building owned by one Ali Haji and no written lease or document was produced to establish PW1 lawful possession of the premises at the time of incident. Section 447 IPC requires possession which is a vital ingredient. The lack of documentary evidence regarding the establishment Mickey motors VK motors create a shadow of doubt on the prosecution version of trespass. The investigation officer admitted that when the complaint was initially received it contains specific details of vehicle include the interior of the building despite elevations that accused entered the shop inspected at a workshop and not at the scene of occurrence. That he had no knowledge of the ownership of the vehicles or the cause of damage beyond the broken glass. Cruisilly clerical error in the vehicle registration number for the weekends the link between the east vehicles and the incident. By the prosecution were declared hostile living early the interested testimony of the complainant which is not corroborated by the independent or reliable documentary evidence.

14. Another aspect to be discussed is the commission of offence u/s. 323 of IPC. With regard to the commission of offence u/s. 323 of IPC is concerned, I find that the prosecution is not successful in proving the

ingredient of Sec.323 of IPC. Going through evidence of PW1 he has no pain or external injuries. Hence I find that the prosecution is not successful in proving the commission of offence u/S.323 of IPC.

15. Though prosecution has alleged that damages were caused to the to the tune of Rs.15,000/-. There is nothing to connect that the accused had committed the alleged offence. No evidence either oral or documentary is adduced to show that a damage to the tune of Rs.15,000/- by smashing the front glasses of the cars parked in the compound of the shop. Without any evidence, corroboration or proof it is not sufficient to hold that accused are guilty of the offence punishable u/s.427 of IPC.

16. On perusal of the evidence on record there is nothing to connect that the accused has criminally intimidated PW1 or make an anonymous call. In order to attract Sec.506(i) there should be a threat in order to be cause alarm to the mind of the other person. Mere expression of words without any intention to cause alarm would not suffice to attract Sec.506(i) of IPC. No independent evidence or corroborative evidence was adduced to prove the case of prosecution. Virtually prosecution has no evidence at all to prove the allegation against accused. In 2010 (10) SCALE 258 Paramjith Sing @ Pamma Vs. State of Utharaghand one Hon'ble Supreme Court observed that an accused can be convicted only on legal evidence and not on surmises and conjecture. The law does not permit the court to punish the accused on the

basis of a moral conviction or suspicion alone. The burden of proof in a criminal trial never shift. It is always the burden of the prosecution to prove its case beyond reasonable doubt on the basis of acceptable evidence. The chain of circumstances revealing the commission of offence could not establish the guilt of accused without any doubt. No independent evidence is supplied by the prosecution. There is no material to prove that accused are the persons involved in the alleged incident. These points are found against prosecution.

17. **Point No.5:-** Considering the entire evidence on record, prosecution failed to prove that the accused had committed offences punishable u/s. 447,323,427,506(i) r/w 34 of IPC. So they are found not guilty of the offences punishable u/S.447,323,427,506(i) r/w 34 of IPC. So accused persons are entitled to be acquittal from all the charges levelled against them.

In the result,

1. Both accused are acquitted 248(1) of Cr.PC for the offences punishable u/s. 447,323,427,506(i) r/w 34 of IPC.
2. Bail bonds of accused are canceled and they are set at liberty forthwith.

(Dictated to Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open Court this the 28th day of March, 2026.)

Sd/-
Judicial First Class Magistrate – I
Tirur

APPENDIX**For Prosecution****Witness Examined**

- PW1 (CW1) : Asharaf, S/o. Abuhaji
- PW2 (CW2) : Abdul Nasar, S/o. Muhammad
- PW3 (CW7) : V.P Sasi, Assi. Sub Inspector (G),
Kadampuzha Police Station
- PW4 (CW8) : C. Sivadasan, Sub Inspector of Police,
Kadampuzha Police Station
- PW5 (CW5) : Ummar V, Asst. Motor Vehicles Inspector,
Sub RTO, Tirur.

Exhibits Marked

- Ext.P1 : Complaint submitted before Sub Inspector of
Police, Valanchery Police Station marked through
PW1
- Ext. P2 : 161 statement dated 09.08.2014 marked through
PW2
- Ext. P3 : Scene Mahazar dated 09.08.2014 marked
through PW3
- Ext. P4 : FIR in Kadampuzha Police Station Cr. no.
287/2014 dated 08.08.2014 marked through
PW4
- Ext. P5 : Report to add section in section column of FIR
marked through PW4
- Ext. P6 : Report to incorporate name and address of the
accused in accused column of FIR marked
through PW4

- Ext. P7 : Report to add original registration number of the vehicle included in the case marked through PW4
- Ext. P8 : Kaicheet dated 30.08.2014 marked through PW4
- Ext. P9 : Report of Inspection of Motor Vehicle involved in an accident dated 20.08.2014 marked through PW4
- Ext. P10 : Report of Inspection of Motor Vehicle involved in an accident dated 20.08.2014 marked through PW4

M.O's Marked : Nil

For Defence

Witness Examined : Nil

Exhibits Marked : Nil

Sd/-
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Tirur

//True Copy//

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Tirur